

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

HONEYWELL INTERNATIONAL INC.
and HONEYWELL INTELLECTUAL
PROPERTIES INC.,

Plaintiffs,

v.

HAMILTON SUNDSTRAND CORP.,

Defendant.

C.A. No. 99-309-GMS

**HONEYWELL'S MOTION TO STRIKE OR IN THE ALTERNATIVE
FOR LEAVE TO FILE AN OVERSIZED RESPONSE TO SUNDSTRAND'S
MOTION *IN LIMINE* TO PRECLUDE PATENT LAWYER TESTIMONY**

Honeywell files this motion to strike Sundstrand's oversized Motion *in Limine* to Preclude Patent Lawyer Testimony, or in the alternative, for leave to file an oversized response to Sundstrand's motion. Hamilton Sundstrand's motion *in limine*, filed February 14, 2006, is 18 pages in length, a direct violation of Section 5(m) of this Court's Final Pretrial Order, which expressly limits such motions to five pages, absent prior permission from the Court. Section 5(m) of the Pretrial Order states: "motions *in limine*: ... Opening and answering briefs shall not exceed five (5) pages and reply briefs shall not exceed three (3) pages." Sundstrand did not seek permission to file an oversized brief in support of its motion *in limine* and there is no separate Pretrial Order in place with different page limits regarding motions *in limine* in this case. To the contrary, at a status conference before the Court in August of 2005, the Court indicated to counsel its believe that "there wouldn't be a tremendous need for *in limine* practice in this situation" on the issue of patent practice experts. 8/29/05 Conference Tr. at 45. Counsel for

Sundstrand agreed with the Court. *Id.* at 46 (“I think you are right.”) Accordingly, Sundstrand’s Motion should be struck as a violation of Section 5(m) of the Court’s Pretrial Order.

In the alternative, if the Court is inclined to allow Sundstrand to file an 18 page motion *in limine*, Honeywell seeks leave to file an oversized response to such motion. Equity requires that Honeywell be given the same opportunity to address the issues raised in Sundstrand’s motion as Sundstrand took for itself. Honeywell therefore requests that if the Court determines not to strike Sundstrand’s motion *in limine*, that it grant Honeywell leave to file a response that is of equal length to Sundstrand’s brief.¹

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/s/ Thomas C. Grimm

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February 22, 2006

¹ In view of the very tight time deadlines that govern *in limine* motions in this matter, Honeywell filed a 15-page reply to Sundstrand's motion on February 21, 2006.

RULE 7.1.1 CERTIFICATION

I hereby certify that counsel for plaintiffs has raised the subject of the foregoing motion with counsel for defendant, and counsel for defendant states that it will oppose the motion.

/s/ Thomas C. Grimm

Thomas C. Grimm (#1098)

CERTIFICATE OF SERVICE

I hereby certify that on February 22, 2006, I electronically filed the foregoing document with the Clerk of Court using CM/ECF, which will send notification of such filing to Richard D. Kirk.

I also certify that on February 22, 2006, I caused to be served true and correct copies of the foregoing document on the following in the manner indicated below:

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